



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

December 12, 2000

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. R. E. Germer, President
Big West Oil Company and
Flying J Refinery
333 West Center
North Salt Lake, Utah 84054

Re: File No. AED/MSEB - 6010
NOTICE OF VIOLATION OF THE CLEAN AIR ACT

Dear Mr. Jenkins:

On November 5, 1997, the U.S. Environmental Protection Agency ("EPA") audited Big West Oil Company and Flying J Refinery ("Big West" and "Flying J"), located at 333 West Center, North Salt Lake, Utah for compliance with the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the anti-dumping fuels regulations issued thereunder (40 C.F.R. part 80, subpart E). On August 28, 2000, EPA also inspected Flying J's terminal located in North Salt Lake, Utah.

The EPA fuels regulations require conventional gasoline to meet certain emission standards and impose on refiners a number of quality assurance, recordkeeping, and reporting requirements. As a result of EPA's audit of Big West and Flying J, EPA determined that Big West and Flying J, in 1995 and 1996, failed to comply with the fuels regulations as follows:

- (1) Failed to used the aromatics test method in violation of 40 C.F.R. §§ 80.46 and 80.101;
- (2) Failed to follow the procedures for composting samples in violation of 40 C.F.R. § 80.91; and ,
- (3) Failed to produce and ship premium gasoline that complied with the maximum per gallon RVP standard of 9.0 psi in violation of 40 C.F.R. § 80.27.

As a result of EPA's inspection of Flying J's terminal on August 28, 2000, EPA determined that Flying J was selling or offering for sale regular and premium gasoline that failed to comply with maximum per gallon RVP standard of 7.8 psi as required by § 80.27.

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize EPA to assess a civil penalty of up to \$27,500 per day for each such violation plus the economic benefit or savings resulting from the violation. In determining the appropriate penalty for violations such as this, we consider the gravity of the violations, the economic benefit or savings (if any) resulting from the violations, the size of your business, your history of compliance with the Act, actions taken by you to remedy the violations and prevent future violations, the effect of the penalty on your ability to continue in business and other matters as justice may require. Based on these factors, we propose a civil penalty of \$15,000 for the violations alleged in this Notice.

We encourage early settlement of matters such as this. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

Please contact the EPA attorney designated below regarding this Notice:

Jocelyn L. Adair, Attorney
U.S. Environmental Protection Agency
Mobile Sources Enforcement Branch (2242-A)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Phone number: (202) 564-1011

Let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Richard B. Buckheit", is written over the typed name.

Bruce C. Buckheit, Director
Air Enforcement Division